Payment-in-Lieu of Taxes (PILTs)

Why are PILTs a Challenge for the Toronto Port Authority?

Alan J. Paul
Vice-President & Chief Financial Officer
Toronto Port Authority

- Port Operations
Toronto Port Authority

- Port Operations
- Over 2 million tonnes annually since 2004
- Bulk cargo
  - salt, sugar, cement, aggregate
- Project cargo
  - windmills, locomotives
Toronto Port Authority

- Toronto City Centre Airport
Toronto Port Authority

- Toronto City Centre Airport
- Porter Airlines
  - 5 destinations
  - More to come
- Medevac flights over 3,000 flights
Toronto Port Authority

- Toronto City Centre Airport
  - TCCA 1 Ferry
Toronto Port Authority

- Toronto City Centre Airport
  - TCCA 1 Ferry
    - 400 feet between mainland and Island Airport
    - transports 100 people and 15 cars
Toronto Port Authority

- Outer Harbour Marina
Toronto Port Authority

- Outer Harbour Marina
- 636 slips
- Full service marina
- Winter storage
Payment-in-Lieu of Taxes (PILTs)

- What are PILTs?
- Property taxes apply to Third Party Leases
- Why is it applicable to Canadian Port Authorities (CPAs)?
- Canada Marine Act (CMA)
  - Schedule III of the PILTs Act
  - Sec 28 of the CMA limits CPAs to engage in port activities and other activities as deemed necessary in the Letters Patent issued to such CPAs.
Payment-in-Lieu of Taxes (PILTs)

- Fair and equitable
- Relevance of the Crown Corporation payment regulations
- “Property value” x “Effective tax rate”
PILTs - “The Players”

- Assessing Authority
  - Municipal Property Assessment Corporation (MPAC)

- Taxing Authority
  - City of Toronto

- Federal Agency
  - Toronto Port Authority

- Federal Department
  - Public Works Canada

- Dispute Resolution Authority
  - Dispute Advisory Panel (DAP)
Why are PILTs a challenge to the TPA?

- Value assigned by MPAC to the TPA property
- No settlement with the City unlike other Canadian Port Authorities in Ontario
- Negotiations with the City of Toronto for the last 4 years and still ongoing
Why are PILTs a challenge to the TPA?

Issues:

- Effect of PILTs on the viability of the Port Authority
- Effect on competitiveness
  
  TPA vs. other Canadian Port Authorities vs. US Port Authorities
- Municipalities view PILTs as a funding device from the federal government
Difference in PILTs
City vs. Toronto Port Authority vs. Hamilton Port Authority

COMPARISON OF PILT 2002-2006

YEARLY PERCENTAGE OF GROSS REVENUE

- City's PILT request to TPA
- Toronto Port Authority PILT Accural
- Hamilton Port Authority PILT Payment

YEA RS

PERCENTAGE OF GROSS REVENUE
Toronto’s Real Estate Market

❖ Past Trends

Land Values increased 70% over the last 5 years!

❖ Future Predictions

Land prices to remain stable with moderate increase due to tight supply
Toronto’s Real Estate Market

What is a “Hot” Real Estate Market?

- Pressure for Port Lands to be redeveloped
- Organizations like Waterfront Toronto have a mandate to do this
Toronto’s Real Estate Market
Location...
Toronto’s Real Estate Market
Location...location...
Toronto’s Real Estate Market
Location...location...location...
Valuation Approaches

- The Cost Approach
- The Direct Comparison Approach
- The Income Approach
Valuation Approaches

- The Cost Approach
  - Principle of Substitution
  - Cost of acquiring an equally desirable property
  - Estimate made on value of the site as if vacant and add depreciated replacement costs of the improvements
Valuation Approaches

❖ The Direct Comparison Approach
  - Estimate of value made by comparing properties sold or offered for sale to the subject property
  - Adjustments made to account for differences in the comparables
Valuation Approaches

❖ The Income Approach

- Assumption that income produced by the property determines its value

- Process of Capitalization (converting future income to an estimate of market value)

- Principle of Anticipation
Best Practices for Valuations of Specialized Federal Real Properties

- What are Best Practices?

  - Collaboration of Appraisal Institute of Canada & Ordre des Evaluateurs Agréés du Québec
  - Input from various stakeholders (Port Authorities, Federation of Canadian Municipalities, Assessing Authorities etc.)
  - Developed on the tenet of fairness and equity (section 2 of PILTs Act)
Best Practices for Valuations of Specialized Federal Real Properties

- What is its purported intent?
  - For estimating property value of Federal Port Facilities in the calculation of PILTs
  - Takes into consideration the federal use restrictions
  - Recognizes different categories of properties and different treatments using valuation approaches
Best Practices for Valuations of Specialized Federal Real Properties

❖ Current status

- In 4th draft
- Not agreed upon by the Federation of Canadian Municipalities
Value Differentials between TPA and the City of Toronto / MPAC

- MPAC’s Approach
  - “one size fits all”

- TPA’s Approach
  - value in use
  - Federal restrictions
  - income generating capacity of the properties
PILTs

- TPA’s Experience at the Dispute Advisory Panel
  - City applied for a hearing
  - Four test properties were agreed upon
  - Three members on the Panel from various backgrounds
  - Written submissions
  - Hearing - Witnesses gave evidence and were cross-examined
  - Final written submissions
Marine Terminals

❖ MPAC’s Approach
  - highest & best use criteria
    • use physically possible and probable
    • use legally permissible
    • use to be marketable & financially feasible
    • use to be maximally productive
Marine Terminals

- MPAC’s Approach (con’t)
  - Industrial Land Table
  - Sale value of comparable properties
  - Buildings valued at reproduction costs adjusted with an industrial “Market Adjustment Factor” (MAF)
  - Assessed at $19,960,000 (2007 tax year)
Marine Terminals

- **TPA’s Approach**
  - MPAC’s value did not consider Federal restrictions
  - Remove the speculative value on future developments in the downtown waterfront location
  - Land tables used to value lands of the Hamilton Port Authority, a direct competitor of the TPA
  - TPA valued Marine Terminals at $6,317,000 (2007 tax year)
Toronto City Centre Airport

- MPAC’s Approach
  - Industrial Land Table
  - Comparison of value to Buttonville Airport
  - Assessed at $52,824,000 (2007 tax year)

- TPA’s Approach
  - Land use restrictions
  - Tripartite Agreement
  - Future development restrictions
  - Passenger count methodology
Outer Harbour Marina

- MPAC’s approach
  - Industrial Land Table
  - Assessed at $13,928,000 (2007 tax year)

- TPA’s approach
  - Income approach based on income generating facility
  - Land use restrictions
  - Valued at $1,051,927 (2007 tax year)
DAP Hearing

Outcome ??

- Non-binding advice to the Federal Agency

- Political ?
Solution ???

Need for Legislative Intervention

- Amount of PILT must be predictable
- Basis of PILT determination must be easily understood
- Payment of PILT must be simple
Proposed Amendment
to the Provincial Assessment Act

- PILT to be payable based on gross revenue formula
  - gross revenue x 2.5% for the first $10 million of gross revenue, plus
  - gross revenue x 1.5% for the next $40 million of gross revenue, plus
  - gross revenue x 0.5% for over $50 million
  - based on $15 million in revenue PILT would be $325,000 per annum.
Proposed Amendment to the Provincial Assessment Act

- TCCA to be “designated airport authority” and PILT to be assessed based on revenue per passenger basis

(Passenger Rate x total number of enplaned and deplaned passengers)
Proposed Amendment to the Provincial Assessment Act

Why should the Province approve this amendment?

- Economic Impact
  - Port of Toronto - $500 million
  - Airport - $200 million
  - Jobs
Thank you!